

## Senate Amendments to House Bill No. 768

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

7           **SECTION 1.** Section 47-5-901, Mississippi Code of 1972, is  
8 reenacted as follows:

9           47-5-901. (1) Any person committed, sentenced or otherwise  
10 placed under the custody of the Department of Corrections, on  
11 order of the sentencing court and subject to the other conditions  
12 of this subsection, may serve all or any part of his sentence in  
13 the county jail of the county wherein such person was convicted if  
14 the Commissioner of Corrections determines that physical space is  
15 not available for confinement of such person in the state  
16 correctional institutions. Such determination shall be promptly  
17 made by the Department of Corrections upon receipt of notice of  
18 the conviction of such person. The commissioner shall certify in  
19 writing that space is not available to the sheriff or other  
20 officer having custody of the person. Any person serving his  
21 sentence in a county jail shall be classified in accordance with  
22 Section 47-5-905.

23           (2) If state prisoners are housed in county jails due to a  
24 lack of capacity at state correctional institutions, the  
25 Department of Corrections shall determine the cost for food and  
26 medical attention for such prisoners. The cost of feeding and  
27 housing offenders confined in such county jails shall be based on  
28 actual costs or contract price per prisoner. In order to maximize  
29 the potential use of county jail space, the Department of  
30 Corrections is encouraged to negotiate a reasonable per day cost  
31 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)  
32 per day per offender.

33           (3) Upon vouchers submitted by the board of supervisors of  
34 any county housing persons due to lack of space at state  
35 institutions, the Department of Corrections shall pay to such  
36 county, out of any available funds, the actual cost of food, or  
37 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)  
38 per day per offender, as determined under subsection (2) of this  
39 section for each day an offender is so confined beginning the day  
40 that the Department of Corrections receives a certified copy of  
41 the sentencing order and will terminate on the date on which the  
42 offender is released or otherwise removed from the custody of the  
43 county jail. The department shall pay the cost for medical  
44 attention for prisoners at an amount no greater than the  
45 reimbursement rate based on the Mississippi Medicaid reimbursement  
46 rate. This limitation applies to all medical care services,  
47 durable and nondurable goods, prescription drugs and medications.  
48 Such payment shall be placed in the county general fund and shall  
49 be expended only for food and medical attention for such persons.  
50 The Department of Corrections shall not pay a county for offenders  
51 housed in county jails pending a probation or parole revocation  
52 hearing.

53           (4) A person, on order of the sentencing court, may serve  
54 not more than twenty-four (24) months of his sentence in a county  
55 jail if the person is classified in accordance with Section  
56 47-5-905 and the county jail is an approved county jail for  
57 housing state inmates under federal court order. The sheriff of  
58 the county shall have the right to petition the Commissioner of  
59 Corrections to remove the inmate from the county jail. The county  
60 shall be reimbursed in accordance with subsection (2).

61           (5) The Attorney General of the State of Mississippi shall  
62 defend the employees of the Department of Corrections and  
63 officials and employees of political subdivisions against any  
64 action brought by any person who was committed to a county jail  
65 under the provisions of this section.

66           (6) This section does not create in the Department of  
67 Corrections, or its employees or agents, any new liability,

68 express or implied, nor shall it create in the Department of  
69 Corrections any administrative authority or responsibility for the  
70 construction, funding, administration or operation of county or  
71 other local jails or other places of confinement which are not  
72 staffed and operated on a full-time basis by the Department of  
73 Corrections. The correctional system under the jurisdiction of  
74 the Department of Corrections shall include only those facilities  
75 fully staffed by the Department of Corrections and operated by it  
76 on a full-time basis.

77 (7) An offender returned to a county for post-conviction  
78 proceedings shall be subject to the provisions of Section 99-19-42  
79 and the county shall not receive the per day allotment for such  
80 offender after the time prescribed for returning the offender to  
81 the Department of Corrections as provided in Section 99-19-42.

82 **SECTION 2.** Section 47-5-903, Mississippi Code of 1972, is  
83 reenacted as follows:

84 47-5-903. (1) A person committed, sentenced or otherwise  
85 placed under the custody of the Department of Corrections, on  
86 order of the sentencing court, may serve his sentence in the  
87 county jail of the county where convicted if all of the following  
88 conditions are complied with:

89 (a) The person must be classified in accordance with  
90 Section 47-5-905;

91 (b) The person must not be classified as in need of  
92 close supervision;

93 (c) The sheriff of the county where the person will  
94 serve his sentence must request in writing that the person be  
95 allowed to serve his sentence in that county jail;

96 (d) After the person is classified and returned to the  
97 county, the county shall assume the full and complete  
98 responsibility for the care and expenses of housing such person;  
99 and

100 (e) The county jail must be an approved county jail for  
101 housing state inmates under federal court order.

102           (2) This section does not apply to inmates housed in county  
103 jails due to lack of space at state correctional facilities. The  
104 department shall not reimburse the county for the expense of  
105 housing an inmate under this section.

106           (3) The Attorney General of the State of Mississippi shall  
107 defend the employees of the Department of Corrections and  
108 officials and employees of political subdivisions against any  
109 action brought by any person who was committed to a county jail  
110 under the provisions of this section.

111           (4) The state, the Department of Corrections, and its  
112 employees or agents, shall not be liable to any person or entity  
113 for an inmate held in a county jail under this section.

114           **SECTION 3.** Section 47-5-905, Mississippi Code of 1972, is  
115 reenacted as follows:

116           47-5-905. (1) All persons placed under the custody of the  
117 Department of Corrections shall be processed at a reception and  
118 diagnostic center of the Department of Corrections and then be  
119 assigned to an appropriate correctional facility for a complete  
120 and thorough classification, not to exceed ninety (90) days,  
121 unless the department determines that a person can be properly  
122 processed and classified at the county jail in accordance with the  
123 department's classification plan.

124           (2) The Department of Corrections shall develop a plan for  
125 the processing and classification of inmates in county jails and  
126 shall implement the plan by January 1, 1993.

127           **SECTION 4.** Section 47-5-907, Mississippi Code of 1972, is  
128 reenacted as follows:

129           47-5-907. The sheriff of any county in this state shall have  
130 the right to petition the Commissioner of the Department of  
131 Corrections to remove a state inmate from the county jail in such  
132 county to the State Penitentiary. The commissioner shall remove  
133 such inmate from such county jail if the sheriff of such county  
134 sets forth just cause in his petition indicating why an inmate  
135 should be removed from such county jail to the State Penitentiary.

136 Just cause is established if such sheriff can sufficiently  
137 prove that such inmate has a dangerous behavior or sufficiently  
138 prove that there is no available or suitable medical facility  
139 where such inmate can be provided suitable medical services. The  
140 commissioner shall respond in writing to the petition no later  
141 than thirty (30) days after the receipt of such petition. If the  
142 petition to remove such inmate is denied by the commissioner, such  
143 sheriff and his agents shall have from the date of denial absolute  
144 immunity from liability for any injury resulting from subsequent  
145 behavior or from medical consequences regarding such inmate,  
146 provided that such injury resulted from conditions which were set  
147 forth in such petition.

148 **SECTION 5.** Section 47-5-909, Mississippi Code of 1972, is  
149 reenacted as follows:

150 47-5-909. It is the policy of the Legislature that all  
151 inmates be removed from county jails as early as practicable.  
152 Sections 47-5-901 through 47-5-907 are temporary measures to help  
153 alleviate the immediate operating capacity limitations at  
154 correctional facilities and are not permanent measures to be  
155 included in the long-term operating capacity of the correctional  
156 system.

157 **SECTION 6.** Section 47-5-911, Mississippi Code of 1972, is  
158 amended as follows:

159 47-5-911. Sections 47-5-901 through 47-5-911 shall stand  
160 repealed on July 1, 2008.

161 **SECTION 7.** This act shall take effect and be in force from  
162 and after its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO REENACT SECTIONS 47-5-901 THROUGH 47-5-909,  
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR CONDITIONS UNDER WHICH  
3 STATE OFFENDERS MAY SERVE SENTENCES IN COUNTY JAILS; TO AMEND  
4 SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF  
5 REPEAL ON THOSE REENACTED SECTIONS; AND FOR RELATED PURPOSES

SS01\HB768A.J

John O. Gilbert  
Secretary of the Senate